

Change Proposal – F40/01

CP No: 1078

Version No:

Title: System and process changes to allow compliance with the changed application of VAT to Trading Charges.

Description of Problem/Issue

The Council of the European Union has directed an amendment to the rules on the place of supply of gas and electricity, for the purposes of turnover taxes¹. This amendment takes effect from 1 January 2005 and directly affects the manner in which VAT is applied to Trading Charges.

Currently, Trading Charges are always subject to UK VAT at the prevalent rate.

The new rules will mean that this is not always the case. A taxable entity that is based outside the UK may qualify for Trading Charges being charged at 0% VAT within the UK.

In order to comply with this taxation legislation BSCCo have obtained agreement from Customs and Excise for the proposed way forward. This involves BSCCo's VAT return being used for settling VAT relating to Trading Charges and there may be a requirement to carry out daily VAT balancing via ELEXON Ltd accounts.

In addition due to the fact that ELEXON Clear produce invoices both for Parties owing Trading Charges and Parties that are owed Trading Charges, ELEXON Clear will be required to know the VAT status of each Party (whether VAT should be charged at the UK rate or zero) and other VAT information that must be provided to EU Parties on a monthly basis.

Systems and processes require appropriate amendment to cater for this.

Proposed Solution(s) *(mandatory by originator)*

The BSCCo is obligated to comply with all applicable taxation legislation. This CP will give the BSCCo the tools to do this in an effective manner that mitigates risks and costs to Parties.

New obligations on Parties to inform BSCCo / the Funds Administration Agent (FAA) of their VAT status in relation to Trading Charges and to provide relevant overseas VAT information for billing and invoicing, are the subject of Modification P170 and do therefore not form part of this CP.

This CP will ensure that the FAA systems and processes are capable of invoicing VAT at a rate other than the UK prevalent rate e.g. 0%. It will also ensure that the FAA can produce a monthly report containing relevant information to each Party who has confirmed that they are not liable for UK VAT. In addition this CP will ensure that appropriate forms exist that may be used by Parties to submit relevant information to the FAA.

¹ The amendment is contained within Council Directive 2003/92/EC, which amends Directive 77/388/EEC as regards the rules on the place of supply of gas and electricity.

Change Proposal – F40/01

CP No: 1078

Version No:

FAA and ELEXON systems and processes will also need to ensure that ELEXON Clear's daily VAT position balances, by debiting or crediting ELEXON Ltd the same day with any deficit or surplus.

Justification for Change (*mandatory by originator*)

The current absence of appropriate processes may prevent ELEXON and Parties from complying with this legislation by 1 January 2005 and would therefore detrimentally impact upon the implementation and administration of the balancing and settlement arrangements.

It should be noted that in the absence of Modification P170 being approved there will be no obligation on Parties to provide the relevant VAT information. However, ELEXON will be asking Parties to provide this information on a voluntary basis. Ensuring that the systems and processes are in place to deal with the new legislation will minimise the risk that ELEXON and Parties will incur financial penalties for failure to comply.

Configurable Items Potentially Affected by Proposed Solution(s)

FAA systems and processes will need to be modified to allow for the differential applicability of VAT rates, VAT reporting and fund transferral between ELEXON Clear and ELEXON.

BSCCo systems and processes may need to be modified to allow for the centralised reporting and settlement of VAT relating to Trading Charges to the relevant UK tax authorities. Systems, processes and documents that are expected to be impacted include (but may not be restricted to):

- FAA software systems;
- BSCP301 'Clearing, Invoicing and Payment';
- BSCP65 'Registration of Parties and Exit Procedures';
- FAA User Requirements Specification;
- Interface Definition and Design Part 1 and 2;
- NETA Data File Catalogue;
- Reporting Catalogue;
- Business Process Model; and
- ELEXON internal working procedures.

Impact on Core Industry Documents

Change Proposal – F40/01

CP No: 1078

Version No:

Related Changes and/or Projects

Modification Proposal P170, 'Amendments to the Balancing and Settlement Code (Code), and to the systems and processes that support it, to allow compliance with the changed application of VAT to Trading Charges'.

It should be stressed that this Change Proposal is not intended to act as a substitute, replacement or alternative to Modification Proposal P170. ELEXON needs to commence implementation work on BSC systems and process changes quickly if it is to comply with the change in taxation law by 1 January 2005. This will necessitate implementation work running concurrently with the assessment of P170. This Change Proposal will provide a basis for this implementation work.

The content of this CP is consistent with P170. P170 is intended to deliver changes to Code obligations relating to declaring relevant VAT details and indemnifying ELEXON from consequential costs or penalties arising from erroneous declarations and may include further system and process changes. Changes to Code obligations are outside the scope of this Change Proposal and are not therefore contained within the proposed solution.

Requested Implementation Date

The systems and process changes will be delivered to take effect from 1 January 2005. It is expected that changes to the Code Subsidiary Documents may be provided earlier, in order to allow voluntary data take-on prior to the law change date.

It is expected that this CP will need to be delivered outside of a scheduled release. This is because the scope of the November 2004 release has been finalised and the changes cannot wait until the February 2005 release because of the need to comply with the law change on 1 January 2005.

Reason:

The tax law change takes effect on 1 January 2005.

Agreed Release/Implementation Date *(mandatory by BSCCo)*

Originator's Details:

BCA Name.....

Organisation.....ELEXON

Email Address.....

Date.....19 August 2004

Change Proposal – F40/01

CP No: 1078

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Attachments: Y/N* (If Yes, No. of Pages attached:.....)
(delete as appropriate)